

PATENT APPLICATION

Our Docket No. 980457.ORI

#7
B. Webb
11/6/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re App : Rodney W. Salo et al. : October 31, 2003
S.N. : 09/545,536 : Art Unit 3762
Filed : April 7, 2000 Examiner Mark Bockelman
For : CARDIAC RHYTHM MANAGEMENT
SYSTEM WITH OPTIMIZATION OF
CARDIAC PERFORMANCE USING HEART RATE

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is submitted in response to an Official Action dated October 3, 2003 in the subject application. The Action was in the form of an Election/Restriction Requirement in which the Examiner directed an election of one of the following species which were deemed to be patentably distinct:

Species I - a method of optimization using a measured ACI as the performance parameter.

Species II - a method of optimization using a measured VCL as the performance parameter.

Species III - a method of optimization using a measured VCL as the performance parameter.

Species IV - a method of optimization using ventricular volumes as the performance parameter.

Species V - a method of optimization using blood flow velocity as the performance parameter.

Species VI - a method of optimization using total acoustic noise as the performance parameter.

Species VII - a method of optimization using direct measurement of pulse pressure as the performance parameter.

Applicant elects the species of Group I. Claims 1-4, 9-10, and 13-19 appear to read on the elected species.

In regard to the Election/Restriction Requirement, it is believed that Species III is a repeat of II.

While making the above election, applicants respectfully traverse the requirement. In this regard, the Examiner is requested to again review claims 13-19 which were submitted in a Preliminary Amendment dated July 7, 2000 and which are believed to be generic. Applicants believe that the species are sufficiently closely related that examination of the generic claims including all discloses species should proceed.

In view of the above, reconsideration of the Restriction Requirement is respectfully requested.

Respectfully submitted,

NIKOLAI, MERSEREAU & DIETZ, P.A.



C. G. Mersereau
Registration No. 26,205
Attorneys for Applicant(s)
820 International Centre
900 Second Avenue South
Minneapolis, MN 55402
(612) 339-7461

CGM:bld